

A taxpayer conundrum: choosing the most advantageous tax treaty dispute resolution mechanism in the wake of the OECD's BEPS Action Plan - the Mutual Agreement Procedure, Arbitration, or APAs?

Markham, Michelle

Licence:
Free to read

[Link to output in Bond University research repository.](#)

Recommended citation(APA):

Markham, M. (2019). *A taxpayer conundrum: choosing the most advantageous tax treaty dispute resolution mechanism in the wake of the OECD's BEPS Action Plan - the Mutual Agreement Procedure, Arbitration, or APAs?*. 21. Abstract from The 28th Annual Tax Research Network Conference, Preston, United Kingdom.

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

For more information, or if you believe that this document breaches copyright, please contact the Bond University research repository coordinator.

Thank you to our Sponsors:



the [Chartered Institute of Taxation](#) and the [ICAEW Charitable Trusts](#) for their generous support in bringing all these papers to our Conference.

Abbot, Ryan & Lindsay, Ira K. (University of Surrey) - Taxation without workers	4
Alexander, Phyllis*; Balavac, Merima**; Lymer, Andy*** and Mukherjee, Surnajita * (* Bournemouth University, ** University of Sarajevo, *** University of Birmingham) – Improving our understanding of tax literacy and tax morale of young adults further	5
Boer, Koos; Vleggeert, Jan; Vording, Henk (Leiden University) - The post-BEPS shift in tax doctrine: will it work?	6
Boden, Rebecca (Tampere University, Finland) - Life is a random walk: reconfiguring National Insurance as taxation in the UK	7
De Carolis, Daniele (University of Oxford) - Comparing WTO and international tax law through soft law: the case of peer reviews of the trade policy review mechanism (TPRM) and the Global Forum on transparency and exchange of information for tax purposes	8
De Cogan, Dominic (University of Cambridge) - Reform and scrutiny of tax policymaking	9
Donnelly, Maureen*; Young, Graeme**; Young, Allister* (*Brock University, Ontario; **Balsillie School of International Affairs, Ontario) – Tax Planning using Private Corporations: Political Lessons from a failed Canadian Reform Effort	9
Bassey, Edidiong (NUI, Galway) – Technology as a tool for reform: a case of tax administration	10
Cortellese, Francesco (European University of Madrid) – Gender Board Composition and Tax Aggressiveness in Spanish listed companies for the period 2011-2017	10
Edogbanya, Adejoh (Kogi State University, Nigeria) - Corporate Governance and Tax Reporting Excellence by Nigerian Public Listed Companies: A proposed Framework	10
Fitzsimons, Vincent (Manchester Metropolitan University) - A model of attitudes towards payment or avoidance of taxes	11
Gobey, Matthew & Spence, Christian (Manchester Metropolitan University) - Local Tax Administration: Richer, Broader, Fairer	12
Gordon, Martyn (Robert Gordon University) – Transfer pricing BEPS policy formation	12

Graw, Stephen (James Cook University) – Using taxation to encourage innovation: the Australian experiments	14
Greggi, Marco (University of Ferrara) – Tangled: Addressing BEPS and the Rise of Tax Sovranism in Europe .	15
Gribnau, Hans (Tilburg University / Leiden University) & van Steenberghe, Albert (Tilburg University) – A transparent tax administration	16
Gupta, Ranjana (Auckland University of Technology) – Tax Implications of Intangibles in the World of BEPS: Do APAs still have a role to play in the Tax Planning Strategies of Multinationals?	16
Hatfield, Michael (University of Washington) – Professionally Responsible Artificial Intelligence	17
Hemels, Sigrid (Erasmus University) - The Dutch R&D incentives: a triumph for innovation or a lobby success?	18
Jayan, Shanmugham D. – Law of Taxation in the Era of the Internet of Things	18
Kayis-Kumar, Ann (University of New South Wales) – ATAD too late? An optimisation modelling approach to designing and evaluating cross-border anti-avoidance rules.	19
Lawton, Amy (University of Lancaster) – Tax with a capital “T”: understanding the concept of a tax	19
Markham, Michelle (Bond University) - A taxpayer conundrum: choosing the most advantageous tax treaty dispute resolution mechanism in the wake of the OECD’s Base Erosion and Profit Shifting Action Plan- the Mutual Agreement Procedure, Arbitration, or Advance Pricing Agreements?	21
Marques, João & Tavares, Ana Helena (University of Porto) – Responsive regulation at tax investigations: The Portuguese tax inspectors’ view about power	22
Masehela, Freddy Kgabo (University of Johannesburg) Is the South African Revenue Service compromising audit quality over quantity?	23
Mathew, Benita (University of Surrey) – The context for the ‘digitalised economy’ taxation issues. A new role for the international tax system?	23
Matikonis, Karl & Gobey, Matthew (Manchester Metropolitan University) – Do property tax reductions for small businesses increase productivity, survival and local growth?	24
McAuliffe, Eileen (Sheffield Hallam University) – What factors Impact tax morale? An empirical analysis of perceived attitudes towards tax compliance.	25
McCarthy, Brendan (University of Limerick) – Voice and Silence in Tax: A Study into the Propensity of Tax Practitioners for Speaking Up	26
McLaren, John (University of Tasmania); Stevenson, Tony (University of Derby); Massey, David (UCLan) – The UK abolished Dividend Imputation as its corporate-shareholder tax system: Should Australia contemplate implementing the current UK system?	26
Ooi, Vincent (Singapore Management University) - Stamp Duties as a Tool for Regulation of the Property Market	27
Pérez, Rodrigo Ormeño (University of Chile) – The unwritten side of tax law: Guidance and endogenization of tax transfer pricing rules by tax authorities	28
Pidduck, Teresa (University of Pretoria) – Tax research methodology for untested legislation: An exemplar for the tax scholar	29

Riccomini, Justine (ICAS); Findlay, Rachel (Edinburgh Napier University); Berthier, Anouk (4-consulting); Walker, Joanne (CIOT) – Devolved taxes in Scotland: silver bullet or expensive vanity project?	30
Rogers, Helen & Closs-Davies, Sara (University of Bangor) – Developing taxpayer understanding of new Welsh devolved taxation and its importance: Findings from an FSB Research Report	30
Russo, Ronald & Taha, Rebwar (Tilburg University) – Towards a more sustainable taxation with tax transparency: the role and perspective of institutional investors	31
Saddiq, Kerrie & McCredie, Bronwyn (Queensland University of Technology) – Behaviours and Characteristics of Tax Aggressive Corporations	31
Sawyer, Adrian (University of Canterbury) – Principles and Frameworks for Evaluating Tax Systems: A New Zealand Perspective	32
Trenta, Cristina (Obrero University, Sweden) – A gender perspective on the role of tax law in support of the Sustainable Development Goals and the new European Consensus on Development	32
Ullah, Subhan (University of Hull); Frecknall-Hughes, Jane (University of Nottingham); Kodwani, Devandra (Open University) – An examination of companies tax strategy documents: Some preliminary findings	33
Umar, Mohammed Abdullahi (Universiti Utara, Malaysia) – Why do they pay so much tithes but evade taxes? Faith in God versus distrust of government in Nigeria.	33
Viswamohanan, Renuka (Cochin University of Science and Technology, Kerala) – Cryptocurrency vis-à-vis sustainable taxation	34
Zawadka, Mateusz (Kozminski University, Warsaw) – Changes in the Polish PIT Act affecting the revenues of the authors of copyrighted works	34
Tax Education Day	36
Marion Hodgkiss BSc CTA FCA – Breakfast CPD presentation	36
Andrea Ferguson, Undergraduate Research	36
Bogovac, Jasna (University of Zagreb) & Braovac, Ilija (Braovac Tax Advisory Ltd) - Tax audit workshop – an alternative in teaching about taxation	37
Doyle, Elaine & Buckley, Patrick (University of Limerick) - The Impact of Co-Creation: An Analysis of the Effectiveness of Student Authored MCQs on the Achievement of Learning Outcomes	37
Evans, Yvonne (University of Dundee) – Producing tax-aware law graduates: what, when and how?	38
Healy, Margaret (UC Cork); Key, Kim (Auburn University); Mulligan, Emer (NUI Galway); McCutcheon, Maeve (UC Cork) – Reflecting on approaches to facilitate students’ cross-cultural learning: an action research study in tax education	39
Hill, Tanya*; Filer, Terry** & du Preez, Hanneke* (University of Pretoria, **University of Swansea) – Undergraduate taxation students’ perceptions on the application of Virtual Reality as a teaching intervention: an international comparison	39
O’Connor, Rachael (University of Leeds) – “Making tax inclusive”: challenges and interventions in teaching international tax law and policy to a diverse student body	39

Recent advances in machine learning raise the spectre of mass job loss due to automation. Whereas mechanisation has in the recent past involved the replacement of low-skilled labour, the coming wave of automation may also threaten high-skill jobs. In this respect, the near future may resemble earlier stages of the industrial revolution in which factories with low-skilled workers replaced skilled labour in many parts of the economy. Although advances in machine learning promise considerable efficiencies in production, technological change that replaces workers with computers and robots present challenges to both social stability and to public finances. In the long run, unemployment rates could rise substantially as human workers can no longer produce enough to make their work worthwhile. In the more immediate future, if machine learning reduces the number of high-skill, high-wage jobs, the labour market could come to be dominated by a large number of poorly paid workers performing whatever tasks cannot be performed by machines managed by a small number of highly paid managers. A society in which work is not a realistic path to economic success or social esteem would require rethinking social order in modern society.

The spectre of mass automation presents at least two challenges for tax policy. First, reduced demand for labour threatens to eat away at the tax base, especially in nations highly reliant on income and payroll taxes. Second, tax policy might form part of a strategy to ward off mass unemployment or deskilling of labour so as to prevent destabilizing social consequences.

In response to this looming problem, some have called for taxes on robots or other measures to discourage substitution of new technologies for labour. Taxation of robots specifically or automation more generally faces a number of difficulties. First, not all automation is socially undesirable. Use of new technology to substitute machines, energy, or different production processes for labour has been a source of remarkable economic growth since the industrial revolution. Some kinds of automation will help workers by lowering the price of goods they consume and by opening up new possibilities for work enabled by machines. The problem is that it will be hard to design policy that distinguishes between desirable and risky forms of automation. Second, even if taxes on robots or on automation are desirable, it will prove difficult to target robots that substitute for workers because robots will be difficult to identify in a way that is specific enough to tax them but general enough to prevent tax avoidance. For this reason, the tax response is likely to require reducing the tax burden on labour so as to encourage employment. Third, international competition for capital and for economic leadership is likely to make taxes on automation unattractive as they will tend to discourage innovative companies for locating in the jurisdiction imposing the tax.

Alexander, Phyllis*; Balavac, Merima**; Lymer, Andy*** and Mukherjee, Surnajita * (* Bournemouth University, ** University of Sarajevo, *** University of Birmingham) – **Improving our understanding of tax literacy and tax morale of young adults further**

Practitioners, policy makers and academics recognise the importance of addressing low-levels of tax literacy and tax morale in individuals, but the challenge is where to start and what to do. Actions taken by the UK Government, as in other countries, demonstrate a clear belief that taxpayer education should be introduced early and then continuously reinforced and enhanced throughout the lives of their citizens. With *Making Tax Digital* coming into fruition in the UK over the next few years, it is more important than ever that the knowledge gap is assessed and addressed and the place to start is in formal education.

This research has its foundations in a project undertaken for the CIOT that looked into the inter-relationships of financial and tax literacy, tax morale and tax compliance attitudes of young people at a UK University (see <https://www.tax.org.uk/file/6171/download?token=0WNk1z5X>). It considered socio-demographic influences and the impact that enhancements to financial and tax literacy may have on young adults' tax morale (i.e. motivation to pay taxes). It also considered the young peoples' perceptions of tax compliance and tax administration. In essence, we wanted to know (1) how tax aware are young people, (2) how high are their levels of tax morale and (3) how may their knowledge and morale be improved before they enter the job market.

The results showed that gender, tax tuition, and employment experience influence tax morale. Most of the students surveyed thought that the UK tax system is fair, but complex with personal tax rates that are too high. The majority also believed that a significant number of taxpayers cheat by paying less than they legally owe. This perception, which may be the result of mainstream media coverage of the 'immoral' tax avoidance of individuals and enterprises, may adversely affect tax morale. It also showed the positive impact of focused tax tuition on university students in raising financial and tax literacy as well as an appreciation for public finance. We were unable to conclude enhanced literacy results in enhanced tax morale from this study, while the results nevertheless demonstrate marginal improvements in this regard.

This paper presents the results of a follow up to this study to explore how this knowledge has evolved in the student's behaviours and thinking over the 12 months since the project was undertaken, including longer-term impacts of tax literacy. It provides results from 4 focus groups. Two of these groups were populated by students who had been part of the previous study (i.e. had received tax education at a UK University and had participated in the previous study), and had subsequently been on a placement year before returning to complete their studies. The other two groups were students who had studied the same course at the same University but had not been on a placement year. The purpose of this study was to explore how notions of tax morale and tax compliance attitudes had developed in those who had received the same formal tax education by comparing these otherwise similar groups, but for significant work experience post receiving tax education in half of the participants.

Our tax systems are still firmly rooted in 19th/20th century tax doctrine. So were the outcomes of the OECD BEPS project (2015). The core ideas in this doctrine are that allocation of taxing rights over states is to be determined by the nexus criteria of residence and source, that taxing rights relate to the concept of income, and that the allocation of corporate taxable income over states (having nexus) is based on the separate entity fiction and arm's length pricing for connected entities. Much of the BEPS project was restoration: going back to the early 20th century intentions of aligning taxation with economic reality by the help of legal concepts.

This basically conservative approach has met with criticism – but it has its merits. As the size of the supranational tax base has increased (i.e., the tax base not unambiguously connected to just one state), so has the competition among states. Every state can try to protect and increase its tax revenue by both attracting foreign tax bases by low effective rates and protecting its domestic tax base by anti-avoidance rules. Large firms, aided by a specialized tax advisory sector, try to reduce their tax payments using the resulting patchwork of rates and rules. Potentially, this means chaos. And the usual way for states to reduce the risk of chaos is to develop and maintain a level of consensus on the principles to be used in resolving their conflicts. That is to say: a consensus based on traditional concepts can perhaps be replaced by some consensus on alternative concepts; it cannot simply be replaced by pragmatism.

While the BEPS project has achieved – and is still achieving – some notable results, it is obviously lacking in its adaptation to a world of huge multinational enterprises and the spectacular growth of digitally provided services. And indeed, the BEPS project output contained quite a few proposals and ideas that do not typically fit in with the traditional doctrine (e.g., a proposed earnings stripping rule for interest deduction). But in its recent consultation document, *Addressing the Tax Challenges of the Digitalisation of the Economy* (Feb. 2019), the OECD shows that it is preparing to go further. The document (while formally a follow-up to Action 1 of the BEPS project) in fact challenges the traditional tax doctrine in a fundamental way. It is, therefore, about much more than just “digital presence”. The document not only debates the role of users in value creation of intangibles; it also offers a fresh look at minimum taxes and simplification of tax bases.

It makes evident sense not to limit the debate to purely digitalised forms of doing business – as the title of the document suggests, digitalisation affects the economy as a whole. The implication may well be that the European Commission's proposals regarding Significant Digital Presence and Digital Services Taxation have already become obsolete.

However, it seems that these EC proposals have had their use, in pushing the OECD forward as much as the US TCJA 2018 did. The post-BEPS new ideas emerging from both the US and Europe have now been combined to in an attempt to develop new concepts and indeed, perhaps a new doctrine.

The paper will try to clarify this shift in tax doctrine, also using the (sizeable) inputs to the consultation process. In addition, it will suggest the criteria needed to evaluate the possible success of this shift in doctrine in terms of regulating the international tax arena.

Boden, Rebecca (Tampere University, Finland) - **Life is a random walk: reconfiguring National Insurance as taxation in the UK**

Preamble

Two personal experiences prompted this paper initially. First, entitlement to the UK state pension is determined by how many full 'qualifying years' an individual has made National Insurance Contributions (NICs). UK women born in the 1950s, including me, have been subject to late-life and largely unadvertised changes in their state pension entitlement – in my own case a shift in the age at which I receive my state pension from 60 to 66. My personal financial loss, under a state social insurance contract scheme I have been paying into since the age of 16, is around £50,000. Crucially, these changes have severely adversely affected many low income women who are unable to make alternative provision in time for their anticipated retirement date, often from physically exacting jobs. WASPI – a crowdfunded legal challenge (of which I am part) – has elicited an interesting public debate around the nature of exactly what National Insurance (NI) is.

Second, I am now tax-resident in Finland and not liable for NICs. Helping a young colleague with his UK state pension entitlement, I realised that my own NI contribution years were insufficient to qualify me for a full state pension when I do eventually get to 66. However, I found that by making voluntary Class 2 NICs over four years, at a one-off cost to me of around £600, I could secure an additional £1630 (at current rates) a year in pension, every year, until I die. Apart from realising I'd stumbled on the best investment I'd ever made in my life, I wondered how the NI system, designed to protect those in need, had gone so horribly wrong.

NI is something of a Cinderella subject. Its diminishing role in providing welfare payments means that social policy researchers rarely address it. It is not labelled as a tax, despite, as I demonstrate in this paper, bearing nearly all the hallmarks of one, leading tax researchers to also largely ignore it. Pensions researchers evidence little interest in state pensions. Falling between three stools, NI has largely disappeared as an area of inquiry, possibly contributing to a plethora of evident shortcomings. This paper seeks to provoke a principles-informed debate on NI and to consider the path for rational reform.

De Carolis, Daniele (University of Oxford) - **Comparing WTO and international tax law through soft law: the case of peer reviews of the trade policy review mechanism (TPRM) and the Global Forum on transparency and exchange of information for tax purposes**

The troublesome relationship between WTO and international tax law

The relationship between WTO and international tax law is highly problematic and ambiguous. On the one hand, international trade and international tax law share the common underlying objective of eliminating barriers to international trade . This is why, at least at an earlier stage, these two legal systems evolved in parallel and under the auspices of the same international institutions . On the other hand, these two regimes are commonly held to differ in terms of structure. The WTO system is essentially conceived as a body of legally binding rules laid down in a multilateral treaty and administered by a supranational institution, whereas the international tax regime is seen as a network of some 3,000 bilateral treaties tied up together and reinforced by a set of non-binding coordination measures such as models, guidelines, and recommendations produced by an institution (the OECD) which looks more like an international forum with no supranational authority . More importantly, especially after the US Foreign Sales Corporation saga, the literature has been focusing on the tensions and disconnections between international tax and trade regimes so that the two systems appear to many irreconcilable and the issues of conflict between them are predicted to become more pronounced in the next future . This is because, in the current scenario of a global trade war, the main economic superpowers are increasingly using their tax sovereignty for protectionist purposes.

Yet, a closer look at both systems shows that, in contrast to this gloomy view, international tax and international trade law are not completely worlds apart. One connecting factor that is often overlooked in this relationship is the significant presence of soft coordination mechanisms in both regimes. Both systems make large use of soft law instruments which are aimed in both realms at serving the same purposes, and namely to relax the binding force of hard law instruments , integrate the meaning of otherwise vague hard law commitments, act as a precursor of proper hard law or as an alternative where agreement on hard law commitments cannot be reached and to monitor the implementation of hard and soft standards....

“This chapter turns from devolution to consider the central institutions of the UK government. As throughout this book, the intention is not to provide a comprehensive survey but rather to convey a sense of the evolution of the institutions governing tax, the legal framework within which they operate and the possible wider consequences for the UK’s constitution. In order to keep the chapter within reasonable bounds, the scope of the present discussion is restricted to the questions of tax reform and *pre-legislative* scrutiny of tax policy. This is admittedly a small subset of a wider range of problems that also includes tax administration, compliance, judicial review and post-legislative scrutiny. These topics would normally be described as part of administrative law but would still have been relevant to the present book had space permitted. Nevertheless, even taken alone, the pre-legislative stage of tax policymaking leaves us with plenty to discuss and goes very close to the heart of how the UK’s constitution processes tax problems.

As with Chapters 2, 4 and 5, the present chapter is divided into three main parts. The first presents a brief overview of the relevant constitutional law debates. The second explains how the problems of reform and pre-legislative scrutiny manifest in the tax field and points out the special considerations that may apply to tax policymaking. The final part draws on this evidence to make some provisional comments on the argument in Chapter 1 that tax law may retain a constitutive or state-building role alongside its more widely understood functions.”

Donnelly, Maureen*; Young, Graeme**; Young, Allister* (*Brock University, Ontario; **Balsillie School of International Affairs, Ontario)
– **Tax Planning using Private Corporations: Political Lessons from a failed Canadian Reform Effort**

In this paper, we follow the journey of a consultation paper released by Canada’s Department of Finance (Finance) under the title, “Tax Planning Using Private Corporations” with the aim of putting an end to strategies that have allowed Canada’s wealthiest individuals to reduce their income taxes payable through the use of Canadian-controlled private corporations (CCPCs) . After releasing the consultation paper on July 18, 2017, Finance undertook a 75-day consultation. Specifically, the following three tax-planning strategies were to be examined:

- income sprinkling (splitting) using private corporations,
- converting a private corporation’s regular income into capital gains (surplus-stripping transactions), and
- holding a passive investment portfolio inside a private corporation.

More than 20,000 submissions were received within the two and a half months of consultation period.

Bassey, Edidiong (NUI, Galway) – **Technology as a tool for reform: a case of tax administration.**

Citizens trust is one of the bedrocks of governance in modern democracies. This decline in trust has had negative consequences in terms of satisfaction with the conduct of public institutions such as the tax administration. The application of technology is considered one of the possible ways of restoring that trust. The paper aims to focus on a literature review of empirical academic research on electronic taxation. A total of 80 papers were generated from the digital government reference library 14.0 and the Association of Business School listing. The articles were categorised into four themes: 1) Context 2) Stakeholders 3) Technology and 4) Results (If any).

The review provides interesting insights such as the lack of conclusive evidence to support the common held belief that e-taxation has financial benefits, the significant role that international players have played in advancing e-government and has also raising interesting questions on what trust means and navigating the frictions between various stakeholders, including marginalised groups. Following from the review, the study recommends several research directions for future research such as addressing the digital divide and assessing what it means for e-taxation to be considered a success

Cortellese, Francesco (European University of Madrid) – **Gender Board Composition and Tax Aggressiveness in Spanish listed companies for the period 2011-2017**

In this study, we consider whether the gender composition of the board of directors could have some relation with tax aggressiveness for a sample of public Spanish listed companies covering the 2011-2017 period. Our fixed-effect model panel data do not show any significant relation between female representation of the board and tax aggressiveness.

Keywords: Tax Aggressiveness, tax avoidance, Gender, Board of directors, listed companies

Edogbanya, Adejoh (Kogi State University, Nigeria) - **Corporate Governance and Tax Reporting Excellence by Nigerian Public Listed Companies: A proposed Framework**

In recent times, corporate governance has been associated with numerous corporate scandals that witnessed across the world of which Nigeria was no exception. This scandal includes false reporting in the annual report and presentations of false financial dealings to the tax authorities in order to avoid paying tax to the government. This deliberate attempt by companies not reporting material fact about their financial dealings has really hampered the government developmental effort. It is stated in this paper that the corporate governance importance cannot be over emphasized in ensuring compliance with tax planning, tax laws and remittances of tax to the government. This paper proposes multivariate analysis using Stata statistical analysis for all the public listed companies in Nigeria. The study adopts the review method to conceptualize the existing empirical and theoretical studies. The paper concludes by recommending tax reporting framework as a code to be included in the next review of corporate governance code of 2011 by the security and exchange commission in Nigeria.

Keywords: Tax planning and Reporting, Firm Performance, Corporate Governance, Nigeria

Fitzsimons, Vincent (Manchester Metropolitan University - **A model of attitudes towards payment or avoidance of taxes**

Research into tax morale has identified the need to establish a model of attitudes towards payment or avoidance of taxes in order to analyse subsequent decisions of individuals. Just as tax avoidance has proved difficult to quantify, the factors that affect attitudes are complex, and their role in attitude formation very difficult to observe or infer. Despite this, recent attempts have produced useful evidence on tax perceptions. This has indicated that the potential punishment for non-payment of tax is not a clear factor in reducing levels of avoidance, but that factors such as individuals' perception of the legitimacy and effectiveness of the state are strongly associated with the decision whether to pay taxes. Personal characteristics of individuals such as age, gender and religious practice are indicated as determinants (Daude et al, 2013). These characteristics have an obvious relevance, as the characteristics of a decision maker, and those they interact with during the process of choice, constitute the 'state of nature' of the decisions they will arrive at. This may therefore be associated with differences in the likelihood of unethical behaviour as well as the ways in which these decisions are arrived at.

Whilst enforcement regimes, at one extreme, and individual characteristics at the other are potential determinants, these models have not dealt with the particular problem, when analysing the relationships involving personal and situational factors, that there is a significant dependence of individual attitudes and behaviours on situations. Situations will have common effects on whole groups of individuals, such as a cultural or geographical clusters, meaning that results generally show less variation within such clusters, and if this is not accounted for in estimation techniques, the overstatement of variation inflates the apparent influence of explanatory factors. This paper presents a multilevel model that examines the determinants of ethical attitudes in terms of bribery decisions. It uses a binomial generalized linear model and logistic regression, controlling for the multilevel nature of the data, to estimate the impact of individual characteristics on ethical attitudes. The analysis uses a range of categorical factors from the World Values Survey and augmented with national level characteristics from the IMF World Economic Outlook database. The model is estimated using MCMC estimation in order to avoid biases in maximum likelihood estimation of binomial models and dependent variables with small mean values (Spiegelhalter, 2002). Factors are reviewed in terms of the estimated certainty intervals, Bayesian p-values and Estimated Sample Sizes of the MCMC model, and model evaluation uses the Deviance Information Criterion. These confirm that individual factors do have significant explanatory power, even controlling for group-effects in the multi-level model framework.

The analysis produces a detailed breakdown of the impacts of explanatory factors, having controlled for variation between clusters, detailing the relevance of sub-groups in terms of age, gender, and education as well as additional factors such as religious observance, employment and town size. This produces a more reliable set of estimates that produce results at odds with a number of the standard results accepted to date. It also highlights the relative weight of individual level variation in the ethical attitudes, regardless of cultural or geographic clustering.

This paper exploits a number of recently published datasets at property and low-level geographies to explore feasible reforms of the constrained English municipal tax capacity and responsibility. The existing business orientated fiscal structure fails to address rapidly increasing social care pressures and increasingly steep social gradients within and across municipalities. We employ a municipal level equal opportunity framework to identify a richer, fairer and feasibly more effective basket of substantially reformed property taxes, new local income and corporation tax receipts and environmental levies that address tax competition and could equitably boost local fiscal capacity if carefully combined with local fiscal responsibility to target tax effort on residents revealed welfare preferences.

Keywords: Local government, taxation, property, income tax, equal opportunity, social gradient

Gordon, Martyn (Robert Gordon University) – **Transfer pricing BEPS policy formation**

The Study

The stated aims of the BEPS Action Plan make it an initiative which addresses issues seen to detract from public wellbeing. This study will therefore adopt a critical approach to examine the formation of Action 13 as a manifestation of accounting with emancipatory potential, ostensibly created for reasons of advancing the public good (Gallhofer, et al., 2015; Gallhofer & Haslam, 2006). In this sense the definition of accounting is consistent with the theorising in Gallhofer, et al. (2015) who take a wider view of accounting as having a ‘emancipatory potential’, being a phenomenon with the potential to serve wider public purpose than satisfying the narrow requirements of shareholders.

The study will adopt a qualitative and inductive method of enquiry, to examine the formation of Action 13. The study will investigate the influence of key constituents in the formation of Action 13 through examination of responses to public consultations on the creation of Action 13 and interviews with key representative stakeholders to understand the tensions that existed in the debate around the creation of Action 13 and the perceptions of key stakeholders as to how and by whom the OECD was influenced.

This study seeks to add to the established literature which studies the effects of BEPS through quantitative enquiry into the macroeconomic impacts e.g. (Dharampala, 2014) and critical legal studies which seek to explore the efficacy of the regulation in practice and the regulatory environment e.g. (Picciotto, 2015) by exploring the influence of institutional actors in shaping the course and formation of regulation. The focus of the study is therefore to gauge the effectiveness of the institutional architecture by interpreting how it responds to a particularly contentious area of practice which is in need of reform.

The study aims to contribute to understanding of whether the OECD as architect and a key influencer of the current global tax system and the institutional framework which governs it (Kurdle, 2014) is capable of achieving the public good aims which are the focus of the BEPS Action Plan.

Action 13 has been chosen as the particular Action through which to make this interpretation due firstly to its tackling of transfer pricing, as a particularly contentious and prevalent mechanism through which companies engage in BEPS (Sikka & Willmott, 2010). Secondly Action 13 as opposed to any of the other Actions tackling transfer pricing has been chosen as it attempts to tackle the problem through increased transparency and information sharing (OECD, 2014). These factors are important because firstly transfer pricing has elicited attention from civil society and academics and secondly because tackling the issue through transparency is a mechanism suggested and advocated for strongly by civil society and academics, many of whom believe Action 13 does not go far enough and who would like to see public country-by-country reporting (The BEPS Monitoring Group, 2014). This spread of opinions provides an opportunity to observe how the OECD as rule maker and advisor in this situation was influenced by pressures coming from diverse stakeholders with potentially strong and conflicting opinions.

By examining the process through which Action 13 was created and the OECD's engagement with stakeholders it is hoped that evidence will emerge of dominant voices in the debate around the final formation of the standard and this will allow conclusions to be drawn about the key influencing constituencies. Furthermore this insight will give some indications as to the dominant institutional actors in the debate and their influence on the OECD as implementers of the BEPS Action Plan.

The first method of enquiry to be followed will be to examine the consultation responses received by the OECD to its initial public exposure draft on Action 13. By firstly categorising respondents and then analysing written responses to identify themes in terms of criticisms, agreement, areas of contention and suggestions raised by various stakeholders it will be possible to construct an understanding of stakeholder attitudes towards the proposed standard. These attitudes can then be compared to the final published standard to understand whose attitudes are most reflected in the final formation allowing conclusions to be drawn about the pressures brought to bear on the OECD and the institutional response to these pressures.

The second method of enquiry will use interviews to gain a deeper understanding of how stakeholders perceive their interactions with the OECD and with each other as participants in the debate. Specifically interviews will seek to uncover instances of alliances being formed between different groups of stakeholders with similar desires as to the formation of the legislation to better understand the institutional tensions existing in the debate over BEPS more widely.

Contribution

The study aims to contribute to our knowledge of how institutions respond to challenges for change in the global hegemony. By examining the OECD as an actor with power to affect change yet imbedded in the current global system through their role in creation and maintenance of the system. Interviews also aim to examine how those responding to consultations seek alliances and perceive conflict with other stakeholders, thus informing their own purpose.

Graw, Stephen (James Cook University) – Using taxation to encourage innovation: the Australian experiments

In addition to measures such as development grants and funding for incubator programs Australia has long used tax incentives to encourage and reward innovation. Like many other countries it has traditionally offered standard tax breaks, such as write-offs for expenditure on R&D and accelerated depreciation for capital expenditure but the 21st century has been noteworthy for the range and scope of tax incentives (and other measures) that both state and Federal governments have introduced to assist innovating enterprises, especially in their start-up phase.

Those incentives, at least at Federal level, really commenced with the *Venture Capital Act 2002* (Cth) (and the associated amendments to both the Commonwealth's taxation legislation and the individual state and territory Partnership Acts), to facilitate *non-resident* investment in the Australian venture capital industry.

Taken collectively, those changes introduced tax incentives for investors making 'early venture capital investments' ('ECVI') through specific forms of investment vehicles — Venture Capital Limited Partnerships ('VCLP'), Early Stage Venture Capital Limited Partnerships ('ESVCLP') or Australian Venture Capital Funds of Funds ('AFOF').

The incentives include both an exemption from Capital Gains Tax ('CGT') on ECVIs that have been held through one of those vehicles — provided the investment has been held for at least 12 months — and an exemption from income tax on any profits made through the vehicle (though losses on both capital and revenue account are also disregarded). A non-refundable 10% carry-forward tax offset was added to those incentives in 2016.

Other currently available incentives include an immediate write off under *Income Tax Assessment Act 1997* (Cth) ('ITAA97') s 40-880(2A) for defined expenses incurred in setting up a proposed small business — including expenditure incurred 'in obtaining advice or services relating to the proposed structure, or proposed operation of the business; or in payment [of government] fees, taxes or charges relating to establishing the business or its operating structure' (though expenses, including the cost of acquiring assets to be used by the business, the direct costs of acquiring start-up capital itself, such as interest, dividends or capital repayments, expenses the business may incur for the operation of a proposed business, such as travel costs while assessing locations, and expenditure relating to taxes of general application, such as income tax, cannot be immediately written off).

There is also a R&D Tax Offset under ITAA97 Div 355 which allows 'eligible R&D entities' that incur 'eligible R&D expenditure' on defined 'core' or 'supporting' R&D activities to a *self-assessed* tax offset, the nature and extent of which depends on the size of their turnover and the amount of their eligible expenditure. That offset, which is jointly administered by AusIndustry (within the Department of Industry, Innovation and Science which manages the R&D Tax Incentive on behalf of Innovation and Science Australia, an independent statutory board of entrepreneurs, investors, researchers and educators) and the Australian Taxation Office ('ATO'),¹ is in lieu of a tax deduction.

ITAA97 Div 83A also provides a 'start-up' concession for shares and options that eligible small start-up companies might issue their employees — in lieu of the higher salaries that they would otherwise have to pay to attract talent. It, inter alia, allows employees participating in option schemes to defer, more easily, their liability to taxation until the options are exercised and, in particular, without the options having to be at risk of forfeiture — though the scheme rules must still genuinely restrict employees from immediately disposing of the rights they receive.

¹ AusIndustry manages the registration of R&D activities; the ATO manages the rules on eligible entities and costs.

Greggi, Marco (University of Ferrara) – **Tangled: Addressing BEPS and the Rise of Tax Sovranism in Europe**

As the implementation of the OECD inspired BEPS Project relentlessly continues in Europe, both via statutory interventions and interpretive guidelines, the judiciary systems appear to adjust the decision-making processes consistently with the new *Zeitgeist*. Evidence of this situation can be drawn both from decision by the European Court of Justice (see ECJ decisions in C-115/16, C-118/16, C-119/16, C-229/16, together with C-C-116/16 and C-117/16 decided on February 26th 2019) and by the Supreme Court of some Member States (see Italian Supreme Court decision n.32225 on December 13th 2018).

In most of these circumstances, the Courts apply GAAR (or GAAR-alike provisions) as to limit the application of EU fundamental freedoms, rights granted by European secondary legislation (namely directives 2003/49/EC and 2011/96/EU in the precedent mentioned above). The same occurs for the implementation of Double taxation conventions (using the beneficial ownership test as under Articles 10, 11 and 12 of the OECD Model Convention).

Besides the specific situations of each case, the motivation of the judiciary can be traced back to the necessity to preserve the power to tax by the national state in cases where the business operation under scrutiny appeared to be abusive or in avoidance of the law. In other situations, the need to prevent double non-taxation is mentioned as well, as to refuse the application of Double taxation conventions or suspend the application of the Parent-Subsidiary directive.

This is not the first time in which the Supreme Courts of member states, together with the ECJ, adjust their interpretive attitude to the change of times and the development of society, but many other external factors might suggest a more radical change in the interplay between state primacy, the development of EU law and EU fundamental freedoms. This would occur both for what concerns the relation between members of the Union amongst them and third countries (the free circulation of capitals is applicable to third countries investors too).

Political scientists and lawyers in some states branded this new phenomenon as *Sovranism*: a new identitary understanding of the law and of the social relations (see also Francis Fukuyama's *Identity. The Demand for Dignity and the Politics of Resentment*). The political theory underpinning this approach is that each state should claw back its sovereign powers that have been relentlessly surrendered in recent time due to a rampant globalization (see the US case) or a progressive taking over by the European law. In many contexts, this *Sovranistic* attitude is coupled with a populist surge, and share its *Manifesto*.

Gribnau, Hans (Tilburg University / Leiden University) & van Steenberghe, Albert (Tilburg University) – **A transparent tax administration**

As a result of the financial crisis, government had to make substantial cuts. Austerity measures can be considered to be one of the explanations behind a decreased confidence in the government. Furthermore, several tax-related scandals and leaks (for example the so-called Panama Papers and Paradise papers) got much media coverage. The message often was that multinational corporations are not paying their fair share and tax authorities are too cosy in their dealings with these multinationals. This has strengthened the decrease in confidence in government, the tax system and the business community. Transparency is widely seen as an important instrument to restore confidence in - the integrity of - the (international) tax system and the actors involved. Social science literature, however, indicates that transparency can also lead to a loss of trust. Information can lead to misunderstandings, to an ever-increasing need for information and to an information overkill. This in turn can lead to a situation in which the information needs are found to be unfulfilled.

Social science literature also indicates that there is no 'one size fits all' approach to transparency. Transparency is strongly bounded to context. This paper argues the meaning of transparency for taxation and the focus is primarily on how the tax authorities can or should be transparent to society and how to deal with the following questions: Why is transparency by the government a topic in taxation, what does transparency mean, how can it be given shape, what does the government want with transparency, what assumed mechanisms underlie this and what bottlenecks and limits are there with regard to transparency?

The remainder of this paper is structured as follows. After a theoretical consideration of various elements of transparency, findings of an empirical study by the Dutch tax authorities on transparency will be presented. This research is focused on the question how the Netherlands Tax and Customs Administration (NTCA) can deal with the increasing demand for transparency towards society. The first part of this paper shows how important, but also how broad the subject of transparency for example by the government is and some paradoxes are pointed out. The second part focuses on the subject of transparency in regard to the specific context of tax administration and tax enforcement. It shows in what way and under which conditions transparency can be effective within this specific context.

Gupta, Ranjana (Auckland University of Technology) – **Tax Implications of Intangibles in the World of BEPS: Do APAs still have a role to play in the Tax Planning Strategies of Multinationals?**

This article attempts to investigate the use of Advance Pricing Agreements (APAs) by Multinational Enterprises ("MNEs") or tax planning and risk allocation purposes in relation to cross-border transactions. The use of APAs for intellectual property transactions by MNEs to adjust or defer their tax liability have been evaluated in light of the recent developments implemented by various jurisdictions under the Organisation for Economic Co-operation and Development ("OECD")'s Base Erosion and Profit Shifting ("BEPS") Action Plan.

To determine how MNEs engage in APAs to "validate" their strategies to adjust or defer their tax liability through complicated arrangements which focus on the use of Intellectual Property (IP) and exploiting differences in countries' laws and regulations, recent European Commission investigations relating to IKEA, Starbucks, Amazon and McDonald's were analysed.

In the post-BEPS Action Item 8-10 (Aligning Transfer Pricing Outcomes with Value Creation) the suggested five key value-creating functions of developing, enhancing value, maintaining, protection against infringement and exploiting the intangible (DEMPE function approach) demonstrate that there is a clear shift in focus from the legal form to the economic reality of transactions. Arguably, the DEMPE function approach ensures that the arm's-length principle better aligns with the commercially realities. That said, the article demonstrates that given the rising number of APAs in the global market, trends indicate that APAs will continue to remain an optimal and preferred solution for transfer pricing disputes in the foreseeable future.

Hatfield, Michael (University of Washington) – **Professionally Responsible Artificial Intelligence**

As artificial intelligence (AI) developers produce more applications for professional use, how will we determine when the use is professionally responsible? One way to answer the question is to determine whether the AI augments the professional's intelligence or whether it is used as a substitute for it. To augment the professional's intelligence would be to make it greater, that is, to increase and improve the professional's expertise. But a professional who substitutes artificial intelligence for his or her own puts both the professional role and the client at risk. The problem is developing guidance that encourages professionals to use AI when it can reliably improve expertise but discourages substitution that undermines expertise.

This Article proposes a solution, using tax professionals as a case study. There are several reasons tax professionals provide a good case study, including that tax practice has a long history of computerization and that AI is already being developed for tax professionals. Tax professionals, including not only lawyers but certified public accountants are directly regulated by the Internal Revenue Service, in addition to their regulation by professional bodies.

This Article proposes a public-private cooperation in regulating the use of AI by professionals in ex ante tax planning. On the private side would be panels of experts testing new AI applications for reliability by running experiments. The panels would certify AI products determined to be substantively sound and designed to educate and engage the professional. On the public side, the IRS would provide a presumptive defense to professional responsibility-related penalties against professionals who used the certified AI. This should motivate tax planners to prefer purchasing certified tax planning AI applications, and thereby motivate tax AI application developers to seek certification.

Though this Article's proposal is specific for the use of AI by tax professionals, it illuminates a way forward for regulating AI use by other professions. The way would be for third parties such as government agencies, professional associations, or malpractice insurers to stimulate demand for certified AI products to be used by professionals. In general, these certifications should be provided to AI that augments the professional's intelligence, increasing his or her professional competence. By keeping professionals involved in the certification process, space is opened to shape the transformation AI is bringing to the professions, and by stimulating product demand for certified products, the odds of successfully shaping that transformation are improved.

Hemels, Sigrid (Erasmus University) - **The Dutch R&D incentives: a triumph for innovation or a lobby success?**

One of the strategic goals defined in Lisbon in 2000 was to enhance innovation in the EU. The economic rationale for this government interference is a perceived market failure in the market for R&D activities. The idea is that without government interference the amount of R&D activities will be too low because positive spill over effects (externalities) are not included in the market price. Usually, a distinction is made between input tax incentives that reduce costs of R&D on the one hand and output tax incentives that reduce taxable R&D profits.

The Netherlands already introduced an input tax incentive, a Research and Development (R&D) tax credit in 1994 (in Dutch: WBSO). This tax credit entails a reduction of wage costs for R&D employees by allowing employers to retain part of the wage tax and social insurance contributions they withheld on the wages of their employees. In addition, in 2007, the Netherlands introduced an output tax incentive, the patent box, renamed innovation box in 2010. The innovation box reduces the effective corporate income tax rate, currently to 7%. The aim of these incentives is to make the Netherlands attractive for innovative companies, to attract and keep high quality employment and to promote R&D activities in the Netherlands. The underlying objective is to increase economic growth. The Netherlands also applies some direct subsidies for R&D, but by now tax incentives are by far the most important means for the government to support R&D Direct subsidies only amounted to EUR 156 million in 2016, where the R&D tax credit amounted to EUR 1,200 million and the innovation box to EUR 1,700 million in 2016. Also compared to other countries Dutch government support of R&D relies relatively heavily on tax incentives ...

Given the rather large impact these tax incentives have on the Dutch budget, the question arises whether these R&D incentives have been effective. That will be the topic of this paper. Before going into this analysis, I will first give a short description of the features of both tax incentives. Then I will discuss the findings of evaluations regarding these incentives and the costs of both incentives for the government. I will also address critique on these incentives.

Jayan, Shanmugham D. – **Law of Taxation in the Era of the Internet of Things**

The question of who is the best neighbour has the apt answer in the one who is living the farthest. The general tendency of the law is very much evident in the undercurrents of this question and answer. The neighbour who is far away is giving more freedom than a neighbour who is nearby. The chances of interaction of the subjects is the subject of law. Lesser the chances of interactions lesser the chances of application of law. So, any means that reduce human interactions reduces the scope of application of the law.

Tax on transactions is an application of law whereby demand from the state encumbers the interactions of the subjects. Taxation, whether on the transaction or accumulation, relies on the transaction and domicile/presence of a person/transaction for levying tax. Evolution and growth of Information and Communication Technology (ICT) has brought in multiple disruptive results. Internet of Things (IoT) is one among them and is slowly becoming ubiquitous. IoT acts as an input

and/or output device whereby accomplishing the functionality that was once done by a person. Thus there is very reason to apprehend an impact of the same on taxation.

This paper thus is an attempt to evaluate the impact of IoTs on the fundamentals of the law of taxation. The paper analyses the same from a broader canvass by analysing the aim of the law and identifying importance of the concept of transaction in a legal system at first. This shall give a plane further to critically evaluate the connection between state, tax, and the transaction and how does the arrival of IoT affects this trinity. To be honest, this is a glimpse of the larger issue at hand and this paper is only a part of the working paper on process.

Kayis-Kumar, Ann (University of New South Wales) – **ATAD too late? An optimisation modelling approach to designing and evaluating cross-border anti-avoidance rules.**

This paper outlines the various corporate interest limitation rules available to policymakers. More broadly, this paper also considers whether reducing distortions in the current tax treatment of cross-border intercompany funding activities is more effective at minimising incentives for tax planning than introducing or reforming complex anti-avoidance rules.

In doing so, this paper explores existing and alternative reform proposals which may better protect the tax revenue base than the existing tax framework. By formulating international tax planning as a linear function, this paper presents a novel approach to testing this proposition for a tax-minimising MNE in the context of a global trend towards lowering headline corporate income tax rates.

It is ultimately hoped that this novel approach to designing and evaluating anti-avoidance rules may provide meaningful information to policymakers for an ex-ante analysis of different tax reform proposals

Lawton, Amy (University of Lancaster) – **Tax with a capital “T”: understanding the concept of a tax**

Introduction

Nobody would dispute that Income Tax is a ‘Tax’. The same would apply to a good number of well-established, more traditional Taxes. It is not the purpose of this paper to challenge the concept of a tax on this point, but rather this paper seeks to look beyond these Taxes, to what lies around the edges of taxation. By drawing on an original, empirical study of the tax profession, it will be shown that there is an inconsistent understanding of the concept of a tax amongst those who work with taxes on a daily basis. It will be argued that the concept of a tax is fluid and goes beyond traditionally defined taxes.

The importance of this subject is twofold. First, little academic literature exists on the subject. Second, what we consider and call a tax has implication for the tax label and the tax narrative. When discussing the tax label, interviewees raised the ‘negative connotations’ (28 interviewees), the use of the word pejoratively (TAX P29; P40), the ‘demonising’ of the tax label as a political tool (TAX P6), amongst a plethora of other negative emotions. People react strongly to taxes because it affects them personally and it affects everyone. Few people really like paying their taxes. When the tax label is applied it raises questions as to whether individuals can see past the label to the true nature of the instrument behind – in this way there is a disconnect between the profession and the public (TAX P9). This disconnect can also be seen within the profession, where there is a clear gap between practitioners and academics. Moreover, the interview data shows that there are inconsistencies

amongst tax practitioners. Views ranged from those who take a 'purist' approach to taxes, to those who considered all revenue raisers to be taxes.

Applying the tax label has a political power (it is "catchy" (TAX P22)) and the vast majority of interviewees thought a higher level of consistency would be useful. So far, the consistency observed in the tax profession can be reduced to a relationship between the taxpayer and the state, which results in a one-way money-flow to the state. This concept of a tax therefore goes beyond those Taxes with a capital 'T' to include a much wider world of taxes. In this sense, we should broaden our definition of taxes to consider these peripheral instruments to take control of the tax narrative.

Methodology

This paper draws on 50 semi-structured interviews with tax professionals, broadly defined, conducted between February and April 2019. This includes interviews with tax practitioners (accountants, lawyers and Chartered Tax Advisors), tax academics, tax campaigners and tax policymakers. In general, the interviews were between 25-30 minutes long and focused on the concept of taxes rather than a specific tax. The study was largely advertised on social media (in particular, Twitter), but also drew upon a previous survey conducted by the author where the participants agreed to be interviewed. The respondents were therefore largely self-selecting and were those tax professionals who are 'online' and 'connected'. Nonetheless, this did not correlate to a consistent response. Indeed, a wide range of views can be seen within the interview data.

The interviews aimed to gain an insight into how the tax professional understood taxes; not only by them expressing their definition of a tax, but also in how they saw the wider issues surrounding tax understanding. These wider issues included the role of the media; wider, public understanding of taxes; the tax label, and; whether there were any grey areas of tax. The initial subjects were a springboard into wider discussions on tax complexity, tax salience and tax policy and provided a useful insight into how tax professionals see the world of tax. By analysing all of the interviews together, it was possible to explore whether there was any level of consistency in the profession. As such, the boundaries of tax can begin to be drawn.

Markham, Michelle (Bond University) - **A taxpayer conundrum: choosing the most advantageous tax treaty dispute resolution mechanism in the wake of the OECD's Base Erosion and Profit Shifting Action Plan- the Mutual Agreement Procedure, Arbitration, or Advance Pricing Agreements?**

...however well the rules are crafted, there will inevitably be situations where disagreements arise; hence, the need to develop procedures through which these conflicts can be resolved.

Improving the tax treaty dispute resolution process is a top priority of the BEPS Project.

The provision of alternative dispute resolution mechanisms to resolve international tax disputes not only pre-dates the tax treaty controversy management tools espoused by the Organisation of Economic Cooperation and Development (OECD) and by the United Nations (UN), but even pre-dates the founding of those organisations.

In its development of draft Model Tax treaties as a way of dealing with the problem of double taxation, the League of Nations in 1923 envisaged a number of alternative mechanisms “with a view to an amicable settlement” of disputes arising as to the interpretation or application of the provisions of the Convention. If such disputes were not settled directly between the States or by the employment of any other means of reaching agreement, the dispute could be submitted to such technical body as the Council of the League of Nations may appoint for this purpose. This body was to give an advisory opinion after hearing the parties, and would arrange a meeting between them if necessary.

The Contracting States were given the option of being able to agree to regard this advisory opinion as final on an upfront basis, prior to the opening of this procedure.

However, in the absence of such agreement, the opinion would not be binding upon the parties unless accepted by both. They would be free to have recourse to any arbitral or judicial procedure which they chose to select, including reference to the Permanent Court of International Justice, provided the matters were within the competence of that Court under its statute.

Thus, almost a century ago, the League of Nations not only envisaged a forerunner of the Mutual Agreement Procedure (MAP) incorporated into most tax treaties today, but also provided for alternative dispute resolution mechanisms, including arbitral procedures.

Moving forward to the present day, with international tax treaty disputes on the rise, the focus is once more on the necessity of providing effective alternative dispute resolution mechanisms. This is especially the case in the wake of the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan,⁷ published in 2013. This BEPS Action Plan was designed to bring about fundamental changes to the international tax framework. It proposed the design of new international tax standards to address transparency issues and ensure profits were not diverted from the country of value creation to low-tax countries where little or no economic activity occurred. The 15 Actions endorsed by the BEPS Action Plan recommended anti-abuse related innovations and changes to previously entrenched definitions, rules and practices, and the enforcement of more stringent compliance requirements.

....

Marques, João & Tavares, Ana Helena (University of Porto) –
**Responsive regulation at tax investigations: The Portuguese tax
inspectors' view about power**

Responsive regulation has a special role within compliance. It has been implemented by tax authorities through adopting regulatory pyramids that account the general relationship between authority and taxpayer.

Deterrence is a critical part of responsive regulation and tax investigations could be a unique opportunity to not only tackle tax evasion but also to promote a better relationship between tax authorities and taxpayers, including those that are not being investigated.

The tax inspection procedure is a very particular stage of the tax procedure. Its outcome depends on a set of interactions between the tax inspector and the taxpayer. Tax inspectors are responsible for conducting this relationship and they have a large set of legal prerogatives to use – the power actions. The way those power actions are used may define the taxpayer's propensity to regularize their tax situation or, on the contrary, adopt a position of resistance or confrontation.

There are many "slippery" zones where the taxpayer's decision to comply or not comply may depend on how the tax inspector manages the conduct of the inspection procedure. The effect of both the Kirchler's Slippery Slope Framework and the Braithwaitian Compliance Pyramid are being explored to design an alternative strategy mechanism to maximise the likelihood of restoration by the offender, during a tax inspection.

....

We have developed a specific regulatory model that resulted in a 'diamond' representation – The Tax Investigation Diamond (TID). The 'diamond' representation clearly shows the different roles of a tax inspector, as an advisor or as an investigator. It is necessary to understand when there are opportunities for a tax inspector to work as an advisor, even in a tax investigation, without compromising the compliance hypothesis by inadequate use of power. Minimally sufficient deterrence for compliance is the objective.

...

Understanding how tax authorities use deterrent measures is fundamental to design strategies for tax compliance, particularly on the interaction climate at tax investigations. The tax compliance literature usually explores the attitudes and behaviours of taxpayers as individuals and of tax authorities as institutions. There is very little which examines the attitudes and behaviours of those who work within the tax authorities. Tax inspectors' understanding of legal prerogatives and the power they have at their disposal is unknown. The implementation of a regulatory tool such as TID, based on a reasoned use of power, depends on the way power is assessed, perceived and used by the tax inspectors. Therefore, we also intend to understand how coercive power is perceived by the Portuguese Tax Inspectors (PTIs).

Keywords: Tax Inspection, Responsive Regulation, Slippery Slope Framework, Tax compliance, Tax inspector

Masehela, Freddy Kgabo (University of Johannesburg) **Is the South African Revenue Service compromising audit quality over quantity?**

Quality is one of the factors that build an organization's reputation and reduces uncertainties amongst stakeholders. The South African Revenue Service (SARS) is under pressure to deliver targets set by the Minister of Finance in his yearly mid-term budget. Due to targets being set increasingly high for the collector of revenue, pressure has mounted on SARS, prompting frequent audits on taxpayers. SARS continues to lose public trust due to the poor quality audits which are being conducted. This raises the question of whether quality matters concerning audits. Quality audits would help bolster the collection process. Conversely, poor quality audits increase costs particularly due to cases being referred to objection, appeal committees or courts. Quality in the context of revenue collection is defined as a strict and consistent commitment to certain standards that achieve uniformity. Quantity in the context of revenue collection is the number of audit cases completed with or without yielding much revenue. Guidance should be taken from countries that have proved to have effective revenue collection methods. Skilled SARS employees would conduct quality audits which would satisfy targets and taxpayer expectations, thus improving taxpayer morale and confidence in SARS.

Keywords: SARS, Quality, Quantity, Compromise, Targets, Stakeholder

Mathew, Benita (University of Surrey) – **The context for the 'digitalised economy' taxation issues. A new role for the international tax system?**

Over the past several years, multinational bodies and tax jurisdictions independently proposed or implemented tax regulation for the digitalised economy. To what extent does digitalisation deserve to be a driver of tax reform? This paper suggests that the response to international tax issues arising from digitalisation should be rooted in principle. Tax revenue risks are present for both digital and digitalised economic activity, reasons for which differ from each other. The paper starts by exploring the relationship between e-commerce, e-business, extensive and intensive use of digital technology. The economy and use of technology are constantly evolving. Driving tax reform as a reaction with specific e-business activities used as a basis to distribute taxing rights is a weak and temporary response to issues originating at the level of tax principles. The paper delves into the relationship between pure digital activities and tax jurisdictions, indicating an incongruence with tax principles that are the fundamental basis for tax rules that allocate taxing rights. Purely digital activities do not have a strong incentive to strategize investment locations as jurisdictional investments are not imperative for digital transactions. The paper also suggests a difference between the customer jurisdiction and resource/service delivery jurisdiction (user) in the context of online advertising. Points from Section 3 are further highlighted, suggesting why taxable activities captured under the "digital services tax" are not completely justified for a separate tax on revenues. This paper concludes that digital activities cannot be blamed for tax avoidance when they have a weak relationship with tax jurisdictions from the very outset. For purposes of fairness, policymakers are not advised to single out and evaluate digital activities in isolation. This paper recommends that tax reform should be motivated by underlying principles that are relevant for the relationship between digital activities and tax jurisdictions.

Matikonis, Karl & Gobey, Matthew (Manchester Metropolitan University) – **Do property tax reductions for small businesses increase productivity, survival and local growth?**

We model and investigate the effect of deep reductions in property taxes for small businesses on their productivity and survival and hence their expected ability to enable local transformative growth. To capture the complex interaction and clustering of hierarchical effects, we use the recently developed non-parametric Random Effects Expectation Maximisation algorithm for productivity analysis and a Survival Tree algorithm for interval-censored observations. We employ microdata for all UK firms and show, contrary to policy expectations, that generic tax reductions are associated with lower productivity and do not affect survival. We further show local output diversity is more relevant to higher productivity.

Keywords: Productivity, Survival, Business Rates, Taxation, Policy

Subject classification codes: C14 C54 D24 H22 H71

McAuliffe, Eileen (Sheffield Hallam University) – **What factors Impact tax morale? An empirical analysis of perceived attitudes towards tax compliance.**

Introduction

Recent research focuses on how differing values and social norms across countries affects economic behaviour. One area in which such studies are acutely relevant is tax compliance. An influence that has been suggested as a factor in compliance behaviour is tax morale, or “the intrinsic motivation to pay taxes” (Alm and Torgler, 2006). The topic of tax morale and as a result tax compliance poses a challenge to administrations throughout the OECD and developing countries. The issue is intricate and multi-faceted. Governments are under significant pressure to provide public services, such as education, health and justice, with reducing resources.

Hallsworth (2014:658) suggests that “improving tax compliance is a major policy goal for developed economies”. Furthermore, he states that an “eroded tax base constrains a government's choice of economic strategies, often leading to higher and more distortionary taxes, increased borrowing or reduced provision of public goods and services”. He proposes the often cited view that public perception is that others are not paying their share and therefore portrays disrespect for the governing law and diminishes trust between individuals and the state builders.

Increasing the understanding of what motivates taxpayers to participate in and comply with the tax system is of universal appeal. All countries and stakeholders can benefit from a deeper, better, understanding of taxpayers' motivations; it can provide the impetus for a more effective, responsive, dynamic tax system. To date much focus has been placed on Domestic Resource Mobilisation (DRM) through international tax policy and capacity building of tax administrations. The need to support DRM being highlighted through the collective voices of supra national governmental bodies, the United Nations Sustainable Development Goals (SDG'S), the Addis Ababa Action Agenda (AAAA) to name a few. In contrast, improving tax morale has been relatively neglected. Tax morale is a vital part of the global tax system and presents an opportunity for intervention, influence and impact. A deeper understanding of the factors that influence taxpayers' perceptions of the tax system and willingness to pay taxes is required if tax morale is to improve, thereby increasing tax compliance and tax revenues as a corollary.

Research Aim

The aim of this research is to investigate the impact of factors affecting tax morale by applying an ordered logit modelling technique across a range of variables. The research applies the model to a number of variables which take a broader perspective, investigating social, political and economic variables. The research contributes to the literature as the methodology applied enables a distinction to be drawn in respect to developed and emerging economies, with the dataset drawing upon 12 countries' (Australia, Brazil, China, India, Poland, Russia, Singapore, South Africa, Spain, Sweden, USA and Zimbabwe) responses over the period 2008-2012. The scope of this research is an exploration of the theoretical results through a behavioural lens suggesting those influences which are of significance.

Contribution to Knowledge

The contributions made by this research to the extant literature are that it extends knowledge by relaxing the proportional odds assumption thereby revealing those variables that influence tax morale in a disproportionate manner. The literature hitherto, assumes linearity amongst variables.

The full paper reports on the results of this study.

Keywords: Tax Morale, Tax Compliance, Tax Evasion, Ordered Logit.

McCarthy, Brendan (University of Limerick) – **Voice and Silence in Tax: A Study into the Propensity of Tax Practitioners for Speaking Up**

Purpose

Employees frequently withhold their ‘voices’ (opinions/input) in relation to a wide range of issues. This is despite the widely-accepted belief that ‘speaking up’ can make a positive contribution to an organisation through increased innovation, more efficient work-processes, error-correction controls and early detection of illegal or unethical acts. The purpose of this research is to explore the propensity for voice and silence within the tax profession.

Originality/Value

It is tax professionals working in accounting firms in Ireland who are the primary focus of this study. These professionals are worthy of focussed research, owing to their duty to uphold the tax code while acting for their clients, their duty to adhere to a professional code of conduct as well as the unique hierarchical structure in which they practice. While there has been some research conducted in the accounting profession, to date there has been no focussed research into voice and silence within the tax profession.

Design/Methodology/Approach

An initial set of 4-5 pilot interviews will be conducted in 2019 with former tax practitioners followed by another 15-20 semi-structured interviews between 2019 and 2020 with a sample of tax practitioners currently working within accounting firms. Milliken et al.’s (2003) methodology will be adopted. The data collected will inform the drafting of a survey instrument to be issued by means of a web-based survey in the second half of 2020. A set of hypothetical ‘vignettes’ will be designed in order to address the research questions.

Keywords: Tax, Employee Voice, Silence, Accounting Firms

McLaren, John (University of Tasmania); Stevenson, Tony (University of Derby); Massey, David (UCLan) – **The UK abolished Dividend Imputation as its corporate-shareholder tax system: Should Australia contemplate implementing the current UK system?**

The main proposition of this paper is that Australia’s imputation system causes distortions due to the influence superannuation investors have on public companies to pay franked dividends. The proposition is that public companies are pressured into paying franked dividends in order to compete for the investment of superannuation funds that benefit from imputation credits.

The main proposition is that dividend imputation system causes distortions in the choice of public companies paying franked dividends at high levels compared with other companies in other countries. This is supported by evidence suggesting Australian superannuation investors are overweight in franked dividend paying stocks; that Australian companies pay more dividends than other countries; and the lobbying efforts of the superannuation industry.

Ooi, Vincent (Singapore Management University) - Stamp Duties as a Tool for Regulation of the Property Market

Excessive property speculation (whether by locals or foreigners) can create serious problems for a government attempting to keep housing affordable for its citizens. In terms of economic benefits to society, allowing individuals to own more than one piece of residential property and/or “flip” their properties in quick succession actually does very little other than promote rent-seeking behaviour and drive up housing prices. It is thus perhaps unsurprising that governments apply a wide range of tools to discourage individuals from holding onto multiple properties, from property speculation, and to limit the extent to which foreigners may purchase properties.

Stamp duties are a form of “Robin Hood Tax” (or Financial Transactions Tax) originally levied on instruments, inter alia, of transfer of real property and shares. They can be used as remarkably flexible tools of tax and housing policy. Barring attempts at tax avoidance, stamp duties represent a surprisingly efficient way of tax collection. In a world of base erosion and profits shifting, stamp duties sidestep most of the issues due to two main features: 1) one cannot “shift” land; and 2) records on land transactions are generally neatly laid out in a register in one government office or another.

If a sufficiently generous threshold is set, stamp duties are the ultimate wealth tax, since by definition, anyone with the means to transact in property must have some kind of wealth. In terms of redistributive taxation, stamp duties represent an efficient way to distinguish between the well-off and those worse-off. As far as housing policy is concerned, stamp duties enable governments to influence supply and demand.

The highly technical nature of stamp duties has resulted in numerous opportunities for tax avoidance. The most obvious being that, as stamp duties used to be a tax on instruments (in the UK, and still is in other jurisdictions such as Singapore and Hong Kong), attempts have been made by taxpayers to transfer properties without the use of instruments. At its most fundamental level, the levying of stamp duties in the context of the property market requires an instrument, a property and a transfer. Theoretically, avoidance attempts may rely on the non-existence of any or more of these three factors.

More sophisticated stamp duties regimes may impose different rates depending on, inter alia, the status of the individual involved in the transaction (e.g. citizen, permanent resident, natural person, corporation, etc...), and the number of properties held by the individuals involved in the transaction. Tax avoidance attempts in such regimes may rely on strategies to shift the beneficial (and/or legal) ownership of relevant properties.

In turn, anti-avoidance measures would focus on negating the effects of such avoidance measures entered into for the main purpose of (artificially) removing any of the relevant factors in stamp duties or shifting the beneficial (and/or legal) ownership of relevant properties.

This paper analyses stamp duties regimes in the UK, Hong Kong, Singapore and Australia, laying out the key features in each jurisdiction and highlighting the design issues that may encourage tax avoidance. It will consider the various tax avoidance schemes that have been (or potentially have been) attempted in each of these jurisdictions, followed by the anti-avoidance strategies that have been (or could potentially be) applied. The paper will then draw on this analysis and lay out the trade-offs present as a matter of tax policy in the stamp duties context.

Pérez, Rodrigo Ormeño (University of Chile –**The unwritten side of tax law: Guidance and endogenization of tax transfer pricing rules by tax authorities**

Taxpayers and tax authorities are expected to apply tax legislation as it is on the books after enactment. Whereas corporations access tax legislation and implement systems that secure compliance and/ or planning of tax liabilities, tax authorities must administer tax law (Hasseldine, Holland, & van der Rijt, 2012). Tax legislation is seen as a product in the knowledge market that is produced by tax authorities and purchased by taxpayers (Hasseldine, Holland, & van der Rijt, 2011). Legislation, along other resources such as staff, materials and information, transform into tax revenues (Bird, 2004; Alm & Torgler, 2011).

Under this traditional paradigm, tax law represents ‘the paradigmatic system of rules’ (Weisbach, 1999, p. 860). Tax rules are then conceived as ‘codified knowledge’ (Mulligan & Oats, 2016, p.64), objective, deterministic and exogeneous to tax practices. Across many areas of law, this view of legislation is noted as outdated, myopic and failure (Bozanic, Dirsmith, & Huddart, 2012). In the tax domain, practice has shown that taxpayers manipulate rules content to their will in ways unintended by drafters (Weisbach, 1999). In reality, tax regulation is socially constructed, whose meaning is highly negotiated, contested and indeterminate in nature (Gracia & Oats, 2012; Morrell & Tuck, 2014; Picciotto, 2007). Such social construction exists regardless of degree of certainty of tax regulation (Covaleski, Dirsmith & Mantzke, 2005). In this paradigm, the endogeneity of law framework gains relevance.

The endogeneity of law framework advances the idea that law is a malleable resource connecting organizations with law. Repeatedly, this framework has posited that regulatees manipulate ambiguous legislation constructing a meaning that serve their own interests (Suchman & Edelman, 1996). Scant research has put this framework in motion (e.g. Covaleski, Dirsmith & Mantzke, 2005; Mulligan & Oats, 2016) and has been solely concerned with taxpayers’ practices. The effects of endogenization transcend the organization that endogenizes meaning effecting on the organizational, political and economic fields (Mulligan & Oats, 2016).

The way by which regulators, such as tax administrations, participate in the endogenization of meaning remains obscure. Boden, Killian, Mulligan & Oats (2010) strongly argue that despite the importance of tax administrations within the tax system and wider society, their practices remain understudied. Existing research in practice has focused on varied themes, including, audit processes (Boll, 2011, 2014); the restructuring processes of tax authorities to respond in better ways to the complexity of tax legislation (Oats & Tuck, 2008); the new competences required from modern tax inspectors (Tuck, 2010); the manner by which tax authorities characterize taxpayers as clients (Tuck, 2013), and; the way in which national culture permeates in the non- application of certain tax rules by tax authorities (Wynter & Oats, 2018). The common thread across this research is that tax authorities operate within the content of tax rules and their interpretation as the right technical tax solution. However, the social elements at play in endogenization processes are overlooked. Our interpretation is in the line that endogenization processes are possible through the exercise of different forms of power. Accordingly, this paper mobilise the endogeneity of law ideas in tandem with the Bourdieusian view of power (Bourdieu, 1990).

Pidduck, Teresa (University of Pretoria) – Tax research methodology for untested legislation: An exemplar for the tax scholar

Research in the field of taxation has historically been underpinned by the more traditional forms of methodologies employed in legal research. These traditional methodologies often rely on case law where the legislation in question has already been the subject of judicial inquiry. Bearing in mind, that tax is a form of law, we must also recognise and emphasise that it has its own unique characteristics (Council of Australian Law Deans 2005, p. 1).

One such unique characteristic is the ever-increasing pace at which tax reform occurs due to changes in the international tax environment. This tax reform is often stimulated by the increasingly innovative ways in which taxpayers attempt to reduce their tax burdens. In response to these attempts, the speed and pace with which tax reform now occurs means that tax scholars in law are confronted with additional challenges in their field, due to the exponential increase in data (statutes, journal articles, law reform reports, parliamentary material and policy documents). Similarly, the tax environment has become so dynamic that tax scholars need to find solutions to research problems in the absence of case law. This raises the challenge of what research method to employ in the absence of such judicial inquiry.

Approaches evident in tax research need to adapt to this challenge. Where innovations in research methodologies gain traction, tax scholars are able to employ increasingly multifaceted and uniquely designed methodologies to seek deeper understanding (Mangioni, McKerchar 2013, p. 176). The field of tax will be enriched by this diversity and innovation. However, scholars using typical doctrinal and reform oriented methodologies often struggle to articulate the existing processes undertaken in their research (Chynoweth 2008, p. 1). In this regard, doctrinal and reform oriented tax scholars cannot afford to be 'left behind' in employing and articulating the innovative research methodologies applicable in their field.

In this context, this paper firstly aims to contribute to the documented research methodology in the field of tax research. This paper will provide tax scholars with the tools with which to articulate their methodological approach. At this point it is relevant to note that the doctrinal reform oriented methodologies are essentially qualitative. A debate between qualitative and quantitative methodologies has not been included as part of this paper but it is recognised that there remains some scepticism towards the findings generated in qualitative studies. Therefore no attempt has been made to address all these arguments. But in undertaking any qualitative research, it is crucial that the researcher address areas such as validity, robustness, reliability and the difficulties in replication of the studies (Mangioni, McKerchar 2013, p. 177).

While there are diverse forms of doctrinal research, the aim is to report on doctrinal reform oriented research in tax, but does not provide an extensive report on the many variances that exist in this methodological approach. Rather, this paper makes use of an exemplar of one unique variant of this methodological approach, known as a 'structured pre-emptive analysis'. This approach differs from typical case law commentary and analysis (traditionally used in doctrinal and reform oriented legal research) or case study designs (present in many other disciplines). The result is a blueprint for executing this type of research than that which has existed in the past.

Keywords – tax, methodology, qualitative, doctrinal, reform oriented, case law, structured pre-emptive analysis.

Riccomini, Justine (ICAS); Findlay, Rachel (Edinburgh Napier University); Berthier, Anouk (4-consulting); Walker, Joanne (CIOT) –

Devolved taxes in Scotland: silver bullet or expensive vanity project?

Our research is based on qualitative interviews with 30 people of different ages, educational backgrounds and income levels, together with a literature review which looks across academic research in other countries as well as within the UK to examine what the outcomes have been elsewhere and what is transpiring from the UK model thus far. The data and forecasting produced by HM Treasury, Scottish Government, Scottish Parliament, OBR, IFS, Scottish Fiscal Commission, ONS and Fraser of Allander Institute will also be used to inform our research. The Scottish Taxes Policy Forum paper will be used as the backdrop for the research.

Rogers, Helen & Closs-Davies, Sara (University of Bangor) –

Developing taxpayer understanding of new Welsh devolved taxation and its importance: Findings from an FSB Research Report

The tax system plays a central role in all modern economies... The way in which these huge sums of money are raised matters enormously for economic efficiency and for fairness” (Mirrlees, 2011:470).

Two new devolved taxes became operational from April 2018, Land Transaction Tax (LTT) and Landfill Disposal Tax (LDT). Changes to tax policy and administration create challenges for taxpayers and practitioners, in addition to potentially influencing taxpayer behaviour. Therefore, understanding the way new taxes are communicated and implemented, and the way they are administered in practice, is important.

In the first year of operation there is little practical experience to draw on; however, over time, the approach, actions and public statements made by the WRA set precedents and inform expectations for future tax administration and enforcement (Bangor University, 2017). Therefore, understanding the way taxes are communicated and administered during their introductory year is important as it offers early indications as to what to expect in future.

This report focuses on LTT because:

- LTT will raise the most revenue for the Welsh Government;
- LTT is forecast to raise approximately 6 times as much as LDT in 2018/19 (see Appendix 3).
- LTT is paid by taxpayers who engage in land or property transactions in Wales, and so has relevance to many small businesses and taxpayers generally.

Also, the number paying LTT is significantly higher than the small number of landfill site operators that pay LDT (the WRA website lists eighteen registered landfill site operators). Typically, LTT is not paid directly by the property purchaser to the tax authority. Rather, LTT is directly paid and dealt with by an intermediary: those “caught in the middle are practitioners” (Drysdale, 2017). The presence and role of tax intermediaries can affect the tax system (OECD, 2008) and most small firms rely on practitioners to determine their tax liabilities (FSB, 2018). In the case of LTT, a solicitor usually takes on this role, and undertakes the administrative and tax compliance work on behalf of the taxpayer. Therefore, the views of intermediary solicitors are important, particularly during the first year of new tax rules and policy changes.

Russo, Ronald & Taha, Rebwar (Tilburg University) – **Towards a more sustainable taxation with tax transparency: the role and perspective of institutional investors**

The most recent revelation by investigative journalists, also known as Mauritius Leaks, highlights once again the importance of and the need for tax transparency. While tax transparency has received a great deal of attention within the academic literature regarding multinationals' and states' perspective little is known about institutional investors' perspective and their approach on the topic. This paper will therefore focus on tax transparency from the perspective of institutional investors. The study emphasizes the importance of tax transparency for institutional investors and describes which role investors can play to enhance tax transparency. The article concludes by referring to discrepancies between the current corporate tax disclosure and investors' expectations and puts forward some key recommendations in order to fill these gaps.

Keywords: tax transparency, institutional investors, tax avoidance, disclosure

Saddiq, Kerrie & McCredie, Bronwyn (Queensland University of Technology) – **Behaviours and Characteristics of Tax Aggressive Corporations**

Over the last five years, jurisdictions have adopted measures to address aggressive corporate tax practices, both unilaterally and in accordance with the OECD Base Erosion and Profit Shifting (BEPS) Program. Despite these measures, it is difficult to empirically establish what an aggressive tax corporation looks like. That is, what characteristics do tax aggressive corporations possess and what corporate structures or behaviours should remediation measures specifically target to combat aggressive corporate tax practices. This study addresses these questions first, by reviewing extant literature which identifies primary indicators of corporate tax aggression and second, by using principal component analysis (PCA) to form a hybrid measure of corporate tax aggression which ranks these indicators in order of influence and therefore importance.

....

The application of PCA to this case study involves an analysis of the 24 primary indicators of corporate tax aggression to determine the variables which explain the most variation in the data or have what is known as the greatest explanatory power. These variables are identified and ranked in order of influence and importance. This information can be used to advocate for change via proposals that specifically target those variables which have the greatest influence on corporate tax aggression. These recommendations are based on legal, ethical and moral considerations with proposed implementation through mandatory and voluntary legislation. Given the global commitment to the reform of the international tax system, we believe that the results of this research will be important to government, regulators, investors and corporates alike.

Sawyer, Adrian (University of Canterbury) – **Principles and Frameworks for Evaluating Tax Systems: A New Zealand Perspective**

Traditionally taxes (and tax systems) are evaluated using principles that, in many instances, trace back to the work of Adam Smith (namely, equity, certainty, convenience and economy). Added to these principles are those of: simplicity, efficiency, and revenue raising. These principles predominantly focus on economic measures (with the exception of equity), and leave out broader social, environmental and cultural factors that impact the well-being of citizens and their country. Within the wider sphere of public expenditures, work has been underway for more than a decade in New Zealand (NZ) to create what the NZ Treasury refers to as its Living Standards Framework (LSF) to incorporate this wider concept of well-being. Fiscal policy is included within the LSF evaluations. The LSF, while still undergoing refinement, formed part of the NZ Government's Tax Working Group (TWG) framework, and appears in aspects of the TWG's 2019 Final Report. The NZ Government's Budget 2019 is one of the first globally to be a well-being budget, although it contains minimal tax content. This paper reviews both the traditional and new LSF principles, evaluates their application by the 2009-10 Victoria University of Wellington (VUW) TWG, the NZ Government 2017-2019 TWG and NZ's Budget 2019. It concludes that other jurisdictions should be keeping a close eye on the impact and 'success' of these developments.

ck to the work of Adam Smith (namely, equity, certainty, convenience and economy). Added to these principles are those of: simplicity, efficiency, and revenue raising. These principles predominantly focus on economic measures (with the exception of equity), and leave out broader social, environmental and cultural factors that impact the well-being of citizens and their country. Within the wider sphere of public expenditures, work has been underway for more than a decade in New Zealand (NZ) to create what the NZ Treasury refers to as its Living Standards Framework (LSF) to incorporate this wider concept of well-being. Fiscal policy is included within the LSF evaluations. The LSF, while still undergoing refinement, formed part of the NZ Government's Tax Working Group (TWG) framework, and appears in aspects of the TWG's 2019 Final Report. The NZ Government's Budget 2019 is one of the first globally to be a well-being budget, although it contains minimal tax content. This paper reviews both the traditional and new LSF principles, evaluates their application by the 2009-10 Victoria University of Wellington (VUW) TWG, the NZ Government 2017-2019 TWG and NZ's Budget 2019. It concludes that other jurisdictions should be keeping a close eye on the impact and 'success' of these developments.

Trenta, Cristina (Obrero University, Sweden) – **A gender perspective on the role of tax law in support of the Sustainable Development Goals and the new European Consensus on Development**

Already in 1987, the Brundtland Commission, originally established by the UN in 1983 as the World Commission on Environment and Development, defined sustainable development as the human ability

to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs

In 2006, recalling that very same definition, the Council of the European Union emphasized that sustainable development is an overarching objective of the European Union set out in the Treaty governing all of the Union's policies and activities. Any activity directly supporting sustainable development efforts within the EU or part of the Union's international outreach should respect the

principles of democracy, gender equality, solidarity, and the rule of law. It should also respect the fundamental rights as set out in the Charter of Fundamental Rights, including freedom and equal opportunities for all. Furthermore, sustainable development finds explicit acknowledgment in EU Treaties along three different dimensions of development which have to be addressed together, systemically: economic, social, and environmental. A life of dignity for all, a peaceful society, and social inclusion are in the view of the EU at the core of sustainable development.

This paper investigates the legal dimension of sustainable development as it specifically relates to gender, gender equality, and human rights issues in the context of tax law as one of the elements of a state's policing. While this area of research sits squarely within the European, international, and national development debates, specific attention to the connection between tax law, sustainable development, and human rights, while gaining considerable relevance and coverage in the mainstream press, remains for now a topic little explored in academic inquiry.

Ullah, Subhan (University of Hull); Frecknall-Hughes, Jane (University of Nottingham); Kodwani, Devandra (Open University) – **An examination of companies tax strategy documents: Some preliminary findings**

The Finance Act 2016 requires companies operating in the UK to publish their tax strategies for each financial year starting after 15 September 2016. The purpose of this enhanced disclosure requirement is to increase transparency and accountability in terms of tax compliance, tax management and the risk exposure of companies for their UK taxation. Using a content analysis approach and supplemented by the plagiarism detection software Turnitin, we examine a sample of FTSE 100 companies' tax strategy documents to understand the quality of disclosure and narratives in their tax strategy documents. We find a higher degree of similarity in terms of the content, themes and tones in these tax strategy documents than could be accounted for naturally or by coincidence, which raises concerns about the quality of compliance with the new mandatory tax disclosure regulation in the UK.

Umar, Mohammed Abdullahi (Universiti Utara, Malaysia) – **Why do they pay so much tithes but evade taxes? Faith in God versus distrust of government in Nigeria.**

Nigeria has been undergoing a protracted tax revenue generation crisis. The country has one of the lowest tax to GDP ratios in the world. The government and international finance experts have consistently attributed the low tax revenue generation to tax evasion. Ironically, churches are increasingly becoming wealthy and taking over control of important sectors of the country's economy. Extant research has dwelled extensively on tax evasion while a growing scholarly attention is focusing on the growing influence of churches. However, a possible linkage between these two seemingly disparate phenomena is yet to be investigated and this study attempts to fill this gap. The study interviewed tithe payers recommended by their church leaders to investigate their motivations for paying tithes and why they are not favourably disposed to taxes. Findings indicate a strong faith in God on one hand and a deep distrust, perhaps, disdain for government on the other hand. The significance of these findings in relation to current literature and implications for public policy were discussed in the concluding section

Disruptive phenomena often compels one to traverse philosophically in a backward track to identify the rationality of an existing phenomena so as to analyse at the root level whether the alleged disruptive phenomena is in truth so. Such a process is a cumbersome task owing to the need for undergoing a high element of unlearning. Even if such an unlearning process is attempted there is a high degree of linearity to be brought into the process which might have been done in a betterment had it be approached in a cyclic pattern. There is a school of thought continuously alleges that there is a cyclic pattern present rather than a linear one. One who is attempting a backtracking is primarily not knowing whether it is linear or cyclic. Be it be anyway whether it was induced or independent still remains open.

These are part of numerous unknown factors which one is pleased with when the said person is forced to discuss about the philosophical foundations. The extended so called philosophical foundations is directly proportionate to the subjective capacity of the person who is making such an attempt. Considering all these mitigating/error posing attributes comes in the way of success of the proper understanding of the phenomena that is threatened by the emerging disruptive phenomena.

This paper thus is an attempt to unlearn those propositions and postulates developed and applied throughout the time to cop up with the advancements and also to promote stability within the social system created thereby. The system is always burdened with the obligation to legitimise those foundations of the system once fixed in consonance with the developments or needs of the time, no matter it is agricultural, industrial or information age. The very idea of society has been identified and promoted out of the idea to protect property and promote individual interests of all time. The idea of property has been transformed from landed property to goods or commodities and to bits or information in binary formats gradually.

But state has remained as the sole protector of the property from then onwards. The political system or in more specific means the international community has been inclining toward developing defending mechanisms in tune with the concept of state. This trend of strong inclination towards the concept of state can be inferred from the political as well as legal developments across the world till date. As it is so at present the international community has been struggling to balance those developments brought out by the information and communication technology (ICT) in tune with the concept of state at large.

Zawadka, Mateusz (Kozminzki University, Warsaw) – **Changes in the Polish PIT Act affecting the revenues of the authors of copyrighted works**

Everyday business reality of our times results in a never-ending race to achieve an advantage over the competitors, which requires searching for the creative ways and innovative solutions. The employers try to support creativity of their employees and thus build the success of the company. Bearing in mind the specificity of artistic activity (especially the amount of expenditure incurred to purchase the necessary tools, materials and rental of space for artistic studios) and irregularity and uncertainty of revenues, it is not surprising that also the state is trying to support the creativity of authors through passing laws supporting the artists.

Regulations of the Polish Act of 26 July 1991 on Personal Income Tax¹ provide a special tax privilege for authors of creative works. Taxpayers who derive revenues from transferring the copyrights to works created by themselves are able to apply tax deductible costs with respect to using copyrights (authors) and related rights (performing artists), within the meaning of separate regulations, or the disposal of those rights by them – in the amount of 50 percent of derived revenues. This solution results in possibility of reducing individual tax base of the Personal Income Tax.

The aim of this paper is to present the consequences of changes in the PIT Act according to authors' revenues, analyse the wording used in the PIT Act and to determine the long-term consequences of the introduced changes. This paper is based largely on author's own extensive research and practical experience with applying policies for creative employees.

Tax Education Day

Marion Hodgkiss BSc CTA FCA – Breakfast CPD presentation

Marion started her current career many years ago when she joined one of the firms that provide the core to the current Kaplan business. She specialises in UK taxation and how it impacts on businesses and individuals. Her courses usually relate to one of two main areas. The first provides delegates with updates on recent tax changes arising from new legislation and case law. The second group are aimed at non-tax specialists who need to understand the impact that financial accounting decisions can have on a company's tax liability, allowing delegates to make the link between their actions when making decisions relating to the accounts and the tax outcomes that will arise.

Marion qualified as a Chartered Accountant with PwC in Liverpool, before moving into training. Her initial brief was training candidates for professional qualifications before she moved into the CPD and in-house work that now occupies most of her time.

She has been Chairman of the CIOT Merseyside Branch and President of the Liverpool Society of Chartered Accountants, and is currently a member of the Tax Faculty board of ICAEW.

Marion has further developed her interest in tax by working with businesses and professional bodies to develop training and personal development for delegates on her courses. These include not only the technical updates but also courses to ensure clients staff are able to complete tax compliance work in such areas as VAT returns, P11Ds and similar.

Some of the key clients which Marion has worked with include the likes of ICAEW, CIOT, ACCA, BDO, Grant Thornton, Smith and Williamson, AXA, Farrer & Co, Rathbone Investment Management, Brewin Dolphin, AstraZeneca, Manchester City Council, GE Capital, Co-op, Barclays, Secure Trust Bank, Mitsubishi, Orange, Unipart, Warburtons, Kier Group and McAlpines.

Andrea Ferguson, Undergraduate Research

Andrea is a qualified solicitor with a background in commercial law. She is currently the Head of UCLan's Graduate Research School and is the University's link with the British Conference of Undergraduate Research (BCUR)

UCLan was instrumental in the founding of BCUR and hosted its first conference in 2011.

You can find out more about BCUR at <https://www.bcur.org/>

Bogovac, Jasna (University of Zagreb) & Braovac, Ilija (Braovac Tax Advisory Ltd) - **Tax audit workshop – an alternative in teaching about taxation**

“Tax audit workshop” is held at the Faculty of Law in Zagreb, Croatia, as a part of the classes for Vocational tax study (3 years, 180 ECTS) and Integrated university-level programme in Law (5 years, 300 ECTS). It is an innovative and dynamic practical teaching method that offers students a realistic insight into the process of tax audit, after the acquired knowledge in tax procedure, basic taxes, tax calculations and tax compliance (CIT, PIT, VAT).

Tax audit is one of the key tax procedures where tax administration and taxpayers come face-to-face playing their roles in a relationship regulated by tax legislation which covers their rights and obligations. Most of the theoretical as well as the practical knowledge previously learned is applied in a simulation using a hypothetical case study, providing students with practice in decision-making in more engaging format.

At the beginning of semester classes are occasionally broken into 3 groups (taxpayers, tax administration, tax advisors) so they are later, during the lectures invited to give their viewpoints, participate in problem solving, debate, apply theories, exercise judgment and give presentations. Every group is guided by two experienced group leaders from the corresponding professions/background (tax officials, tax advisors, tax managers in companies). The workshop begins with the organization of the groups, and formally with the indirect (office) audit of the tax returns, continues with the direct (field) audit, collection of the documentation, argumentation, final interview, issuance of a tax decision of the first and second instance, preparation of an appeal and closes with the preparation and delivery of the suit. At the end of every workshop we discuss together the most important lessons learned.

We will present details of the preparation for the Workshop (creation of groups, writing assignments, students presentations, practical classes, guest lectures, case study, documentation), introductory instructions, organization of facilities and chronological overview of every groups’ work.

The second part of our presentation will be dedicated to the learning objectives, benefits and shortcomings of the workshop, evaluations by students as well as the most interesting commentaries and suggestions. We also hope to receive valuable commentaries from the colleagues who attend the Conference.

Doyle, Elaine & Buckley, Patrick (University of Limerick) - **The Impact of Co-Creation: An Analysis of the Effectiveness of Student Authored MCQs on the Achievement of Learning Outcomes**

While research and practice focused on academics and students working in partnership to co-create teaching and learning in higher education has increased, co-creation in assessment remains relatively rare in higher education (Deeley & Bovill, 2017). It is acknowledged in the literature that a deeper understanding of content can be achieved by having students create questions and answers, rather than just answering teacher-designed questions (Draper, 2009). However, to date, studies measuring the impact of students co-creating assessment instruments on academic performance are limited. This study examines the effect on academic performance of students creating their own multiple-choice questions using an on-line peer-learning environment. The study uses a novel experimental design to allow us to quantitatively measure the effectiveness of the co-creation assignment, making a significant contribution to our knowledge of the impact of co-creation.

Keywords: Co-creation, Multiple choice questions, Tax Education, On-line peer-learning assessment, Constructivism

Producing tax-aware law graduates: what, when and how?

I will consider the need for trainee lawyers to be tax-aware. If we agree that this is desirable and necessary, what might be the most suitable educational options to try to achieve this? I will consider these questions in light of potential reforms to university law courses in Scotland.

Background and reasons for study

The Law Society of Scotland (LSS) regulates the routes to qualification as a solicitor in Scotland. By far the most common route is to study a LLB (Hons) in Scots Law as a four year degree, or two-year accelerated LLB (Ord) for graduates. Some law schools, such as Dundee and Aberdeen, also offer a dual qualifying degree in Scots and English Law, and various other LLB (Hons) joint programmes are on offer. Students whose LLB degrees included passes in several core “required” Scots law subjects are then eligible for entry to the Professional Diploma in Legal Practice (DPLP), the Scots equivalent of the Legal Practice Course (LPC). They can then undertake a two year traineeship.

LSS is currently consulting on proposals to make tax law a required core component of the undergraduate LLB for those seeking to qualify as solicitors in Scotland. Tax was a required LLB subject until 2011. Since then, only two of the ten Scots law schools currently offer UG tax law elective options (including Dundee, where in fact it is our most popular elective option). The Consultation is considering not only whether tax law should be a requirement at undergraduate level, but also whether it should be a distinct module or elements of tax should be taught pervasively and studied as part of other law subjects (e.g. company law, succession law).

LSS is also consulting and reflecting on the required components of the Professional Diploma in Legal Practice, including the tax elements. The teaching of tax in the Diploma is “pervasive” in several core modules of the DPLP. Their ultimate question is whether mandatory exposure to tax solely on the DPLP is enough to create office-ready trainee solicitors.

I have been engaged with the Consultation both as a member of the Law Society of Scotland’s Tax Law policy sub-committee, and as a teacher of tax law who would be significantly affected by the proposals. It is apparent that senior tax practitioners and law firms (and their insurers) are keen to ensure that incoming trainee solicitors are as tax-aware as possible. However, law schools would face challenges with staffing required tax law modules and also fitting in tax law into an already tight LLB curriculum. All UK law schools, including Scottish ones, are also keeping a close eye on developments with the introduction of the Solicitors’ Qualifying Examination (SQE).

I am writing up my reflections on tax awareness and tax education as the final “Fellowship” element of my studies for the Postgraduate Certificate in Academic Practice in Higher Education, due to be submitted mid-July 2019. I am also due to become Module Organiser for the Private Client module of our DPLP at Dundee in the next academic session 2019/20, which is giving me the chance to revamp the tax teaching within that course, and think about course and assessment design.

Healy, Margaret (UC Cork); Key, Kim (Auburn University); Mulligan, Emer (NUI Galway); McCutcheon, Maeve (UC Cork) – **Reflecting on approaches to facilitate students’ cross-cultural learning: an action research study in tax education**

The accounting/tax profession has identified a need for accounting/tax professionals to develop greater levels of cultural awareness, facilitating the development of a global mind-set and enabling sensitive international collaboration. Despite the internationalisation of the student body and trends towards the global university, accounting/tax educators report difficulties in harnessing cultural diversity to produce such collaboration. Prior research has sought to introduce cross-cultural learning in a mono-cultural setting. This study by contrast brings together students of taxation in two distinct geographical locations and takes an action research approach to developing a rewarding cross-cultural experience. The findings suggest that while there are clear benefits to be gained for students and lecturers alike from cross-cultural collaboration there are challenges remaining. Exploration of these challenges illuminates broader issues which may inhibit pedagogical change in tax/accounting education.

Key words: cross-cultural learning; collaboration; action research, tax/accounting pedagogy.

Hill, Tanya*; Filer, Terry** & du Preez, Hanneke* (University of Pretoria, **University of Swansea) – **Undergraduate taxation students’ perceptions on the application of Virtual Reality as a teaching intervention: an international comparison.**

Goldman Sachs Global Investment research division predicts that by the year 2025, the digital market will expand to US\$ 95 billion, of which 75% will be invested in entertainment (Yasai et al., 2019). The digital market will consist of augmented reality/virtual reality (AR/VR). Additionally, the Fourth Industrial Revolution is due to peak in 2025 and it will be based on cyber-physical devices (Anon., n.d.). VR falls within this category. The research question driving this study is: what are students’ perceptions of the use of VR as a teaching intervention during an undergraduate taxation lecture? Based on the above predictions, the contribution of this research can be found in the preparation of future leaders to embrace the digital market and to manage cyber-physical devices.

The aim of this research is to establish whether or not students perceive the use of VR in the classroom as an enhancing tool towards understanding the content of taxation better. A comparison will be made between students in South Africa (ZA) and Wales, United Kingdom (UK). This will be done in order to deepen the researchers’ understanding of the impact of VR on the learning process of undergraduate taxation student

O’Connor, Rachael (University of Leeds) – **“Making tax inclusive”: challenges and interventions in teaching international tax law and policy to a diverse student body**

Internationalisation in terms of research, partnerships and student body is high on the agenda of most UK universities and has been for some time. Arguably, this is particularly the case for post-graduate business/corporate focussed law courses and modules. International tax law is becoming an increasingly popular subject in this context and one which many international students enrolled on such post-graduate courses are keen to study, often due to prior practical experience, future career/study considerations or because it is complementary to other subjects being studied.

Consequently, it is important as a teacher of international tax law and policy to consider the target audience in designing or developing a module or course. My presentation is a reflection of my first year as a teacher of international tax law and policy having transitioned from being a practitioner in domestic transactional tax, the challenges I have faced and lessons I have learned along the way. These lessons have led me to reflect and closely consider the best way in which to teach this subject to a cohort of predominantly international students from a range of backgrounds, countries and levels of experience in/with tax.

I will consider whether inclusive teaching practice is capable of a one size fits all approach when it comes to subjects and students or whether there are particular features of a subject like international tax law and policy which require specific interventions to maximise students' understanding and connectedness with the subject, particularly from the perspective of international students. I will discuss some of the interventions I am planning to trial in the next academic year in an attempt to make international tax law and policy more inclusive and impactful for the students on my course.

The aim is to test different pedagogical methods to determine the extent to which targeted interventions relating to inclusive teaching practices in the realm of international tax law and policy can improve international students' experiences and perceptions of the subject, positively challenging them and increasing their motivation to take undertake further study in tax or go into/continue tax practice. The presentation aims to provide a collaborative forum in which attendees can share experiences, best practice and their own challenges in teaching or being taught tax (from a legal perspective or otherwise).